IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE

Writ Petition No. 1985 of 2006

Sanjay Dault Padol ..Petitioner

vs.

1. Sampat Suka Patil and ors. ..Respondents

Shri C.G.Gavnekar for petitioner.
Shri Madhav Jamdar for respondents.

CORAM: S.B.MHASE J.
27th April, 2006

P.C.

1. Heard the learned Counsel for the parties.

2. Reg.Civil Suit No.49 of 1994 was filed by one Hari who is respondent no.13 in this petition as against respondent nos. 1 to 12 for declaration that the said Hari is exclusive owner of the said property. However, that suit was partly decreed, namely, the claim in respect of declaration of exclusive ownership has been rejected and respondents/defendant nos. 11 and 12 in that suit were directed to file a suit for partition and possession etc. Reg.Civil Suit No.63 of 2001 was filed by respondent nos. 1 to 12 as against the said Hari and his son. The said suit was decreed by the Civil Judge, Jr.Dn., Dindori on 31st December, 2002 and preliminary decree was passed in favour of the plaintiffs in that suit, namely, respondent nos. 1 to 12 in the present petition. The said Hari who is respondent no.13 in the present petition has challenged both the decrees and appeals are pending before the

District Judge, Nashik. During the pendency of the said appeals Hari has sold part of the property in favour of the present petitioner by sale deed dated 8th September, 2005 to the extent of 1 A from block no.159B/2. Since the said sale was effected, respondent nos. 1 to 12 who are the respondents in appeal No.73 of 2003 filed an application to implead the purchaser as party and also filed an application for injunction as against them. Thereafter the present petitioner was included as respondent no.13 in the said pending appeals and injunction order was passed on 6th February, 2006 by the VIth Adhoc Additional District Judge as against the petitioner after hearing him and since the petitioner is aggrieved by that order the petitioner has approached to this Court by filing the present petition.

3. Prima facie, the petition is directed as against the interim order passed at the Appellate stage. The facts itself eloquently show that while the litigation between respondent no.13 and respondent nos. 1 to 12 is pending the petitioner has purchased this property. It appears that in the revenue records in "other right column" the names of respondent nos. 1 to 11 were very much recorded and could have given a sufficient notice to the petitioner while purchasing the property that there are other persons interested in the said property. However, it appears that there are observations made in para 10 of the impugned order that some manipulated 7/12 extracts were shown to the petitioner and it was annexed to the sale deed and

thereafter the sale was effected. Let the facts as it is. Who is responsible for manipulation is not the question to be considered at the interlocutory stage. If the said extract is given by the vendor of the petitioner then it is the matter between the vendor and the petitioner but so far as respondent nos. 1 to 12 are concerned their interest in the property was very much eloquent on record. Therefore, prima facie it is difficult to believe that the petitioner has purchased the property for value without notice. There are other grounds which are tried to be raised by learned Counsel Shri Gavnekar to demonstrate that the suit was not registered. However, we need not go into this aspect at this stage. But para 12 of the judgment if taken into consideration, it shows that the petitioner must have been aware of the interest of respondent nos. 1 to 11. Under these circumstances, this Court finds it improper to entertain the petition. This Court finds that the order has been passed on proper and sound judgment and reasoning and no interference is called for. Petition is rejected.

(S.B.MHASE J.)